

SIPCO, LLC,)
)
Plaintiff,)
)
v.) Civil Action No. 2:08-cv-359
)
AMAZON.COM, INC., COOPER)
INDUSTRIES, LTD., COOPER)
WIRING DEVICES, INC.,) JURY TRIAL DEMANDED
CRESTON ELECTRONICS, INC.,)
EATON CORPORATION, HAWKING)
TECHNOLOGIES, INC., HOMESEER)
TECHNOLOGIES, LLC,)
INTERMATIC, INC., LEVITON)
MANUFACTURING CO., INC.,)
SMART HOMES SYSTEMS, INC.,)
WAYNE-DALTON CORP., and X10)
WIRELESS TECHNOLOGY, INC.)

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4. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 4.

5. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 5.

6. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 6.

7. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 7.

8. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 8.

9. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 9.

10. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 10.

11. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 11.

12. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 12.

13. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 13.

II. JURISDICTION AND VENUE

14. Amazon.com admits that this action purports to be an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §101 *et seq.* Amazon.com denies the remaining allegations of this paragraph.

15. Admitted.

16. Amazon.com admits that it sells items to customers located around the world, including within the state of Texas and that it may be served with process through its registered agent. Amazon.com denies the remaining allegations of this paragraph.

17. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 17.

18. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 18.

19. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 19.

20. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 20.

21. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 21.

22. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 22.

23. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 23.

24. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 24.

25. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 25.

26. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 26.

27. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations in paragraph 27.

28. Amazon.com does not contest venue in this Court pursuant to 28 U.S.C. §§1391 and 1400(b) with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 28.

III. FACTS GIVING RISE TO THIS ACTION

A. Patents In Suit.

29. Amazon.com admits that United States Patent No. 6,891,838, entitled “SYSTEM AND METHOD FOR MONITORING AND CONTROLLING RESIDENTIAL DEVICES” (the “‘838 patent”) was issued by the United States Patent and Trademark Office (the “PTO”) on May 10, 2005. Amazon.com admits that a copy of the ‘838 patent was attached to the Complaint as Exhibit A. Amazon.com denies the remaining allegations of paragraph 29.

30. Amazon.com admits that United States Patent No. 7,103,511, entitled “WIRELESS COMMUNICATION NETWORKS FOR PROVIDING REMOTE MONITORING OF DEVICES” (the “‘511 patent”) was issued by the PTO on September 5, 2006. Amazon.com admits that a copy of the ‘838 patent was attached to the Complaint as Exhibit B. Amazon.com denies the remaining allegations of paragraph 30.

31. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 31.

32. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 32.

B. Defendants' Acts Of Infringement.

33. Amazon.com admits that it has sold and offered to sell wireless sensor network systems and the components of such systems for consumers' in-home use. Amazon.com denies the remaining allegations of paragraph 33.

34. Amazon.com admits that it has sold and offered to sell via its website, Amazon.com, various brands of wireless systems. Amazon.com denies the remaining allegations of paragraph 34.

35. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 35.

36. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 36.

37. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 37.

38. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 38.

39. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 39.

40. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 40.

41. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 41.

42. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 42.

43. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 43.

44. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 44.

45. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 45.

46. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 46.

47. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 47.

48. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 48.

49. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 49.

50. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 50.

51. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 51.

52. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 52.

53. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 53.

54. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 54.

55. Amazon.com denies the allegations of paragraph 55 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 55.

56. Amazon.com denies the allegations of paragraph 56 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 56.

57. Amazon.com is without sufficient information to admit or deny and, therefore, denies the allegations of paragraph 56.

COUNT I
Infringement Of The '838 Patent.

58. Amazon.com incorporates all foregoing paragraphs as if fully set forth herein.

59. Amazon.com denies that it has infringed directly or indirectly any valid claim of the '838 patent. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 59.

60. Amazon.com denies that it has an “infringing systems” and that it has infringed directly or indirectly any valid claim of the '838 patent. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 60.

61. Amazon.com denies the allegations of paragraph 61 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 61.

62. Amazon.com denies the allegations of paragraph 62 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 62.

63. Amazon.com denies the allegations of paragraph 63 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 63.

64. Amazon.com denies the allegations of paragraph 64 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 64.

COUNT II
Infringement Of The '511 Patent

65. Amazon.com incorporates all foregoing paragraphs as if fully set forth herein.

66. Amazon.com denies that it has infringed directly or indirectly any valid claim of the '511 patent. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 66.

67. Amazon.com denies that it has “infringing systems” and that it has infringed directly or indirectly any valid claim of the '511 patent. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 67.

68. Amazon.com denies the allegations of paragraph 68 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 68.

69. Amazon.com denies the allegations of paragraph 69 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 69.

70. Amazon.com denies the allegations of paragraph 70 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 70.

71. Amazon.com denies the allegations of paragraph 71 made with respect to Amazon.com. Amazon.com is without sufficient information to admit or deny and, therefore, denies the remaining allegations of paragraph 71.

72. All allegations not specifically admitted here are denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense: Non-Infringement.

1. Amazon.com has not infringed, directly, or indirectly, any valid claim of the '838 patent.

2. Amazon.com has not infringed, directly, or indirectly, any valid claim of the '511 patent.

Second Affirmative Defense: Invalidity.

3. The '838 patent is invalid for failure to comply with one or more of the following statutory provisions: 35 U.S.C. §§ 101, 102, 103, or 112.

4. The '511 patent is invalid for failure to comply with one or more of the following statutory provisions: 35 U.S.C. §§ 101, 102, 103, or 112.

Third Affirmative Defense: Failure To Provide Notice

5. On information and belief, Plaintiff has failed to meet the requirements of 35 U.S.C. §§ 271(b) and (c), 284 and/or 287 with regard to the '838 patent.

6. On information and belief, Plaintiff has failed to meet the requirements of 35 U.S.C. §§ 271(b) and (c), 284 and/or 287 with regard to the '511 patent.

Fourth Affirmative Defense: Prosecution History Estoppel

7. Plaintiff's alleged causes of action for patent infringement are barred under the doctrine of prosecution history estoppel, and Plaintiff is estopped from claiming that the '838 Patent covers or includes any accused Amazon.com method, system, and/or product.

8. Plaintiff's alleged causes of action for patent infringement are barred under the doctrine of prosecution history estoppel, and Plaintiff is estopped from claiming that the '511 Patent covers or includes any accused Amazon.com method, system, and/or product.

Fifth Affirmative Defense: Dedication To The Public

9. Plaintiff has dedicated to the public any method, system, and/or product disclosed in the '838 Patent but not literally claimed therein and is therefore estopped from claiming infringement by any such public domain method, system, and/or product.

10. Plaintiff has dedicated to the public any method, system, and/or product disclosed in the '511 Patent but not literally claimed therein and is therefore estopped from claiming infringement by any such public domain method, system, and/or product.

Sixth Affirmative Defense: Failure To Join Indispensable Parties

11. Any parties retaining rights in the '838 Patent may be indispensable parties who must be joined.

12. Any parties retaining rights in the '511 Patent may be indispensable parties who must be joined.

Seventh Affirmative Defense: Reverse Doctrine Of Equivalents

13. The accused methods and/or systems operate in ways substantially different in principle from the way the inventions described in the '838 Patent operate and/or are programmed, and Plaintiff cannot sustain its burden of proving otherwise.

14. The accused methods and/or systems operate in ways substantially different in principle from the way the inventions described in the '511 Patent operate and/or are programmed, and Plaintiff cannot sustain its burden of proving otherwise.

Eighth Affirmative Defense: Failure To State A Claim

15. Plaintiff has failed to state a claim for infringement under 35 U.S.C. §§ 271 with regard to the '838 Patent.

16. Plaintiff has failed to state a claim for infringement under 35 U.S.C. §§ 271 with regard to the '511 Patent.

PRAYER FOR RELIEF

WHEREFORE, Amazon.com requests the following relief:

a) Dismissing SIPCO's Complaint, with prejudice, and denying any claim for relief prayed for therein;

b) Judgment that Amazon.com does not infringe, directly or indirectly, any valid claim of the Patents-in-Suit;

c) Judgment that the Patents-in-Suit are invalid;

d) Judgment that this is an exceptional case and an award of attorneys' fees and costs pursuant to 35 U.S.C. § 285; and

e) Such other relief as the Court deems appropriate.

Dated this 6th day of March, 2009

By: /s/ **Robert T. Cruzen**

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CERTIFICATE OF SERVICE

This is to certify that all known counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per E. Dist. Tex. Loc. Ct. R. CV-5(a)(3) on this the 6th day of March, 2009. I also caused a copy of this document to be served via first class mail to:

Allan Diamanti, President
Smart Home Systems, Inc.
10 Lawrence Ave
Smithtown, NY 11787

/s/ Robert T. Cruzen
Robert T. Cruzen